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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554
Federal Communications Commission
Office of Secretary

In re Applications of) MM DOCKET NO. 94-71
)
SANTA MONICA COMMUNITY) File No. BPED-920305ME
COLLEGE DISTRICT)
)
For Construction Permit)
Channel 201B)
Mojave, California)

To: Chief Administrative Law Judge
Joseph Stirmer

**MASS MEDIA BUREAU'S COMMENTS ON
MOTION TO GRANT PENDING APPLICATION**

1. On April 15, 1997 (corrected April 16, 1997), Santa Monica Community College District ("SMCCD") filed a motion to grant pending application. The Mass Media Bureau submits the following comments.

2. SMCCD briefly recites the procedural history of its application. The most important point relating to the instant matter is the Commission's decision in Santa Monica Community College District, 11 FCC Rcd 1123 (1996). Therein, the Commission ordered the Mass Media Bureau to process the pending application of California State University, Long Beach Foundation ("Cal State") for modification of the facilities of Station KLON(FM), Long Beach, California. The Commission further ordered the Bureau to prepare an order consolidating the applications in the instant hearing if the Bureau determined that the applications of SMCCD and Cal State were mutually exclusive. However, before the Bureau prepared such an order, the applicants settled this matter as described below.

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3. On April 15, 1997, SMCCD and Cal State jointly requested Bureau approval of a settlement agreement. Among other things, the agreement contemplated grant of Cal State's application, following acceptance of a Cal State amendment which would remove the mutual exclusivity between the SMCCD and Cal State applications. On April 23, 1997, the Bureau accepted the amendment, approved the settlement agreement, and granted the Cal State application. See Attachment. Consequently, as a result of the Bureau's actions, SMCCD's application is ripe for grant, subject to the following condition:

This application is being granted prior to the completion of the United States/Mexican notification procedures. Therefore, any construction of and operation with the facilities specified in the instant grant is at the applicant's own risk and subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary to conform to the provisions of any agreement between the United States and other countries.

4. Accordingly, the Presiding Judge should grant the SMCCD application, subject to the condition set forth in paragraph 3 herein, and terminate this proceeding.

Respectfully submitted,
Roy J. Stewart
Chief, Mass Media Bureau



Norman Goldstein
Chief, Complaints/Political Programming Branch



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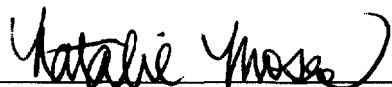
April 24, 1997

CERTIFICATE OF SERVICE

Natalie Moses, a secretary in the Complaints/Political Programming Branch, Mass Media Bureau, certifies that she has on this 24th day of April, 1997, sent by first class United States mail, copies of the foregoing "Mass Media Bureau's Comments on Motion to Grant Pending Application" to:

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A handwritten signature in cursive script, appearing to read "Natalie Moses", is written over a horizontal line.

Natalie Moses

ATTACHMENT

**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554**

APR 23 1997

IN REPLY REFER TO:
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In re: NEW, Mojave, California
Santa Monica Community College
District
File No. BPED-920305ME

KLON(FM), Long Beach, California
California State University, Long
Beach Foundation
File No. BPED-940713IZ

Dear Counsel:

This concerns the above-referenced mutually exclusive construction permit applications filed by Santa Monica Community College District ("SMCCD") and California State University, Long Beach Foundation ("CSU") and a Motion To Dismiss Informal Objection and Request To Approve Settlement Agreement ("Settlement Agreement") filed on April 15, 1997.

As originally filed, SMCCD's application, which specified operation on Channel 201B1, was mutually exclusive with an application filed by Living Way Ministries ("Living Way") for a new educational FM station in Lancaster, California (File No. BPED-920511MC). On June 27, 1994, the SMCCD and the Living Way applications were designated for hearing in MM Docket 94-71. On July 1, 1994, the parties entered into a settlement agreement under which SMCCD would amend its application to specify operation in Channel 204B instead of 201B. In that proceeding, the Presiding Administrative Law Judge approved the agreement and accepted the amended SMCCD application on July 21, 1994. However, on July 13, 1994, eight days before the Administrative Law Judge accepted SMCCD's amended application, CSU filed an application to modify the facilities of noncommercial, educational station KLON(FM), Long Beach, California, which was mutually

exclusive with SMCCD's amended application. On August 22, 1994, SMCCD filed an informal objection to CSU's application.

In accordance with the terms of the Settlement Agreement, on April 14, 1997, CSU filed an amendment to its modification application for KLON(FM) to eliminate the mutual exclusivity with the amended SMCCD application. We have examined the Settlement Agreement and the attached affidavits and find that the applicants have complied with the provisions of 47 U.S.C. § 311(c)(3) and 47 C.F.R. § 73.3525. Pursuant to the terms of the Settlement Agreement, no Section 307(b) questions have been presented and, therefore, publication is not required under 47 C.F.R. § 73.3525(b). Furthermore, we find the application filed by CSU, as amended, is acceptable in all respects.

Accordingly, pursuant to 47 C.F.R. § 0.283, the Motion To Dismiss Informal Objection IS GRANTED and the informal objection filed by Santa Monica Community College District IS DISMISSED. Furthermore, the Request to Approve Settlement Agreement IS GRANTED. Additionally, the application, as amended, filed by California State University, Long Beach Foundation to modify the facilities of KLON(FM) IS HEREBY GRANTED.¹ The construction permit authorization will follow under separate cover.

Sincerely,



Dennis Williams
Assistant Chief
Audio Services Division
Mass Media Bureau

¹ We note that the SMCCD application has been retained in hearing status. Consequently, the Audio Services Division does not have the authority to grant this application.